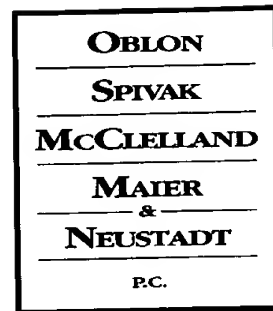


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Docket No.: 206580US0



ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

RE: Application Serial No.: 09/842,161
Applicants: Hidetaka IWAI, et al.
Filing Date: April 26, 2001
For: EMULSION COSMETIC
Group Art Unit: 1617
Examiner: Gina Yu

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SIR:

Attached hereto for filing are the following papers:

Declaration Under 37 C.F.R. 1.132 (executed); Attachment to Declaration Under 37 C.F.R. 1.132

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

A handwritten signature in cursive script, appearing to read "Thomas Cunningham", is written over a horizontal line.

Norman F. Oblon

Registration No. 24,618



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Thomas M. Cunningham
Registration No. 45,394

DOCKET NO.: 206580US0

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: :

HIDETAKA IWAI ET AL

: EXAMINER: YU, GINA C.

SERIAL NO. : 09/842,161

FILED: APRIL 26, 2001

: GROUP ART UNIT: 1617

FOR: EMULSION COSMETIC :

ATTACHMENT TO DECLARATION UNDER 37 C.F.R. 1.132

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Further to the Amendment, submitted November 18, 2002, the Applicants now submit a Declaration under 37 C.F.R. 1.132 for consideration along with the comments presented in the previously-filed Amendment. The Declaration reiterates and makes of record the data shown in Table A on page 5 of the Amendment (compare Table A in the Amendment with Tables 1 and 2 of the Declaration), as well as additional data further distinguishing the invention from the prior art.

The experimental data shown in this Declaration should be considered in conjunction with the prior response to the obviousness rejection. These data show that selection of a surface active agent having a dynamic surface tension of 57 mN/m or less produces an oil-in-water emulsion with superior properties, such as a very high transparency, which is desirable in cosmetic products.

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Moreover, the Table appearing on page 4 of the Declaration further distinguishes the invention from the cited prior art, Yu, English translation of JP63-126542, by showing that the dynamic surface tension values for surface active agents described by Yu are above 57 mN/m, unlike the surface active agents of the present claims. Accordingly, the Applicants reiterate their earlier arguments and respectfully submit that the obviousness rejection of the present claims, which are directed to surface active agents with dynamic surface tensions of 57 mN/m or less, may now be withdrawn.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Norman F. Oblon
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DOCKET NO.: 206580US

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF:

HIDETAKA IWAI ET AL.

: EXAMINER: YU, G.

SERIAL NO. 09/842,161

FILED: APRIL 26, 2001

: GROUP ART UNIT: 1617

FOR: EMULSION COSMETIC

DECLARATION UNDER 37 C.F.R. §1.132

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Now comes Hidetaka Iwai who disposes and states:

1. That I am a graduate of Waseda University, and received a Master's degree in the year 1989.
2. That I have been employed by Kao Corporation for 14 years as a researcher in the field of skin care cosmetics.
3. That I understand the English language or, at least, that the contents of the Declaration were made clear to me prior to executing the same.
4. The effects of a representative number surface active agents having a dynamic surface tension of less than 57 mN/m on oil-in-water emulsion transparency were compared to similar emulsions produced using surface active agents having a dynamic surface tension above 57 mN/m.

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5. Table 1 shows the various surface active agents that were compared and their dynamic surface tension values.

Table 1

| surface active agent | dynamic surface tension |
|-----------------------------|-------------------------|
| alkyl glutamate sodium | 49.6 mN/m |
| POE alkyl ether | 51.6 mN/m |
| alkyl methyl taurine sodium | 53.3 mN/m |
| alkyl Castor oil | 58.0 mN/m |
| sorbitans mono alkylate | 58.4 mN/m |

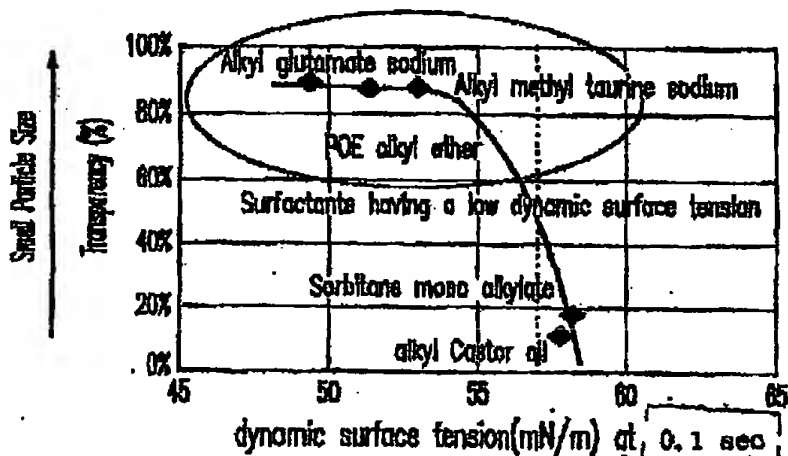
6. Process conditions. Oil-in-water emulsions were produced by ten machines (DeBEE2000) passes at a shear rate of 5×10^7 m/s at 18°C. The components of the emulsions are shown below:

| | |
|--|--------|
| surfactant | 0.5% |
| dimethyl polysiloxane (5 mm ³ /s) | 5.10% |
| 86% glycerol | 33.60% |
| dipropylene glycol | 2.00% |
| water | 58.80% |

The surface tension of the oil phase was 19.3 mN/m and the surface tension of the water phase was 56.7 mN/m.

7. Table 2 shows the degree of transparency of the resulting oil-in-water emulsions. As shown, surface active agents having a dynamic surface tension of less than 57 mN/m produced highly transparent emulsions, while surface active agents with dynamic surface tension values of greater than 57 mN/m produced emulsions with much less transparency.

Table 2



8. One with skill in the art would recognize that highly transparent emulsions are desirable and useful, for instance, for the production of lotions, hair treatments, and other cosmetic products.

9. Surface active agents used by JP63-126542. The dynamic surface tension values (mN/m) of surface active agents described by JP63-126542 were measured using a Type BP-D3 automatic dynamic surface tension meter (produced by Kyowa Interface Science Co., LTD.) designed to measure the dynamic surface tension of a 0.2% aqueous solution of surface active agent at 25°C in 100 msec according to bubble pressure method. These values are shown in the Table below.

| Surface active agent | Dynamic surface tension | Described by JP63-126542 on: |
|--|-------------------------|-------------------------------|
| Potassium lauryl sulfate (Potassium dodecyl sulfate) | 58.4 mN/m | Pages 7-10 (Examples 1-27) |
| POE (2): Triethanolamine lauryl sulfate (Triethanolamine dodecyl sulfate) | 66.4 mN/m | Page 4, lines 23 |
| Sodium N-myristoyl-N-methyl taurine | 60.6 mN/m | Page 4, lines 24-25 |
| POE (8): Sodium Oleyl ether phosphate | 67.1 mN/m | Page 4, lines 25-26 |
| Myristyl trimethylammonium chloride | 59.2 mN/m | Page 11 (Example 30) |
| Cetyltrimethylammonium bromide | 57.7 mN/m | Page 11 (Example 31) |
| Dicetyltrimethylammonium bromide | 65.7 mN/m | Page 12 (Example 32) |

10. The undersigned petitioner declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

11. Further deponent saith not.


Signature

12/13/2002
Date